REMARKS

Entry of this Amendment and reconsideration are respectfully requested in view of the amendments made to the claims and for the remarks made herein.

Claims 1-19 and 21-25 are pending and stand rejected

Claims 1, 6, 12, 19 and 25 have been amended.

Claims 1, 19 and 25 are independent claim.

Claims 1 and 6-8 stand rejected under 35 USC 102(e) as being anticipated by Ota (USP 4,732,844). Claims 19 and 25 stand rejected under 35 USC 103(a) as being unpatentable over Ota in view of Tacken (USP 6,238,846). Claims 2-5 and 24 stand rejected under 35 USC 103(a) as being unpatentable over Ota in view of Tyan (USP no. 5,051,340). Claims 9-12, 14-15 and 21-23 stand rejected under 35 USC 103(a) as being unpatentable over Ota in view of DePuydt (USP 6,030,556). Claims 13 stand rejected under 35 USC 103(a) as being unpatentable over Ota in view of JP06-060440. Claims 16-18 stand rejected under 35 USC 103(a) as being unpatentable over Ota in view of Miyamoto (USP 6,709,801).

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With regard to the rejection of claims 1 and 6-8 as being anticipated by Ota, applicant respectfully disagrees with and respectfully traverses the rejection of the claim.

In supporting the rejection of the claims, the Office Action asserts that Ota discloses the method of forming a master which includes a master substrate, a first photoresist, an SiO intermediate layer and a second photoresist. The resists are etched using different wavelengths of light and developed using different solvents (see col. 4, lines 6-20).

A review of the cited section reveals that Ota teaches a disk manufacturing process including first and second photoresist layers 7 and 9, respectively, and an intermediate layer 8, wherein the solvents used in etching the photoresist

layers 7 and 9 may be different when the solvent of the photoresist layer 9 does not affect the photoresist layer 7. In this case, the intermediate layer 8 may be eliminated. In addition, if the photoresist layers are treated with the same developing solution then the number of times of developing the recording original board can be reduced.

Thus, Ota teaches that it is possible to etch the first and second photoresist layers using different solvents if the solvent of one photoresist does no effect the other photoresist.

However, applicant believes that the different process described by Ota is not comparable to the different processes recited in the claims.

Not withstanding the argument above, applicant has elected to amend the claims to further recite the element of "a recording material in an initially crystalline state for forming amorphous marks ... and at least one of the interface layer and the substrate layer, in an initially amorphous state ..." No new mater has been added. Support for the amendment may be found at least on page 8, lines 6-9 ("In case the master substrate is in initially in the amorphous state, crystalline marks are recorded during illumination. In case the recording layer is initially in the crystalline state, amorphous marks are recorded. During developing, one of the two states is dissolved in the alkaline or acid liquid to result in a relief structure.") and on page 8, line 32-page 9, line 3 " In case crystalline marks are written in an initial amorphous layer, typical marks remain that are [sic] conform the shape of the focussed [sic] laser spot. The size of the crystalline mark can somewhat be tuned by controlling the applied laser power, but the written mark can hardly be made smaller than the optical spot. In case amorphous marks are written in a crystalline layer, the crystallisation [sic] properties of the phase-change material allow for a mark that is smaller than the optical spot size."). See also, Figure 13a-13c. wherein the width of the etching is narrower in the interface layer.

Ota fails to provide any teaching regarding the characteristic of the photoresist layers as being in one of an amorphous state or a crystalline state. (i.e., a recording material, in an initially crystalline state ... wherein the at least one of the interface layer and the substrate layer, in an initially amorphous state,).

Ota fails to provide any teaching regarding a state of either the photoresist layer 7 or 9.

A claim is anticipated if and only if each and every element is recited in a signal prior art reference.

Ota cannot be said to anticipate the invention recited in the claims as Ota fails to disclose a material element recited in the claims.

For the amendments made to the claims and for the remarks made herein, applicant submits that the reason for the rejection has been overcome.

With regard to the remaining claims, these claims depend from independent claim 1 and, hence, are also not anticipated by Ota by virtue of their dependency upon an allowable base claim.

With regard to the rejection of independent claims 19 and 25 under 35 USC 103(a) as being unpatentable over Ota in view of Tacken, applicant respectfully disagrees with and explicitly traverses the rejection of the claims. However, claims 19 and 25 have been amended in a manner similar to claim 1 to recite the recording layer is in an initially crystalline state and the interface layer is in an initially amorphous state.

Tacken discloses a method of manufacturing a stamper for producing optical discs that involves the application of a photoresist film to a substrate and subsequently structuring the photoresist film by exposing and developing the photoresist. The method is characterized in that an electrically conducting substrate is used.

Tacken fails to provide any teaching regarding an amorphous or a crystalline state of the layers, as is recited in the claims.

A claimed invention is prima facie obvious when three basic criteria are met. First, there must be some suggestion or motivation, either in the reference themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the teachings therein. Second, there must be a reasonable expectation of success. And, third, the prior art reference or combined references must teach or suggest all the claim limitations. The Court in *KSR v. Teleflex* (citation omitted) has held that the teaching, suggestion and motivation test (TSM) is merely to be used as a helpful hint in determining obviousness and a bright light application of such a test is adverse to those factors for determining obviousness enumerated in *Graham v. John Deere* (i.e., the scope and content of the prior art, the level of ordinary skill in the art, the differences between the claimed invention and the prior art and objective indicia of non-obviousness) (citation omitted).

In this case, the combination of the cited references fails to disclose a material element recited in each of independent claims 19 and 25. Accordingly, each of the aforementioned claims is not rendered obvious by the cited references.

With regard to the rejection of the remaining claims under 35 USC 103(a), applicant respectfully disagrees with and explicitly traverses the rejection of the claims.

Each of the remaining claims depends from one of the independent claims and none of the other cited references provides any teaching regarding the characteristics of the materials, as is recited in the independent claims.

Accordingly, each of the remaining claims is not rendered obvious by the teachings of Ota in combination with any of the other cited references as the

combination fails to disclose a material element recited in the independent claims, and consequently, the corresponding dependent claims.

For the amendments made to the claims and for the arguments presented herein, applicant submits that the rejections of the claims have been overcome and respectfully requests that the rejections be withdrawn. The issuance of Notice of Allowance in this matter is respectfully requested.

Applicant denies any statement, position or averment stated in the Office Action that is not specifically addressed by the foregoing. Any rejection and/or points of argument not addressed are moot in view of the presented arguments and no arguments are waived and none of the statements and/or assertions made in the Office Action is conceded.

Applicant makes no statement regarding the patentability of the subject matter recited in the claims prior to this Amendment and has amended the claims solely to facilitate expeditious prosecution of this patent application. Applicant respectfully reserves the right to pursue claims, including the subject matter encompassed by the originally filed claims, as presented prior to this Amendment, and any additional claims in one or more continuing applications during the pendency of the instant application.

In order to advance the prosecution of the matter, applicant respectively requests that any errors in form that do not alter the substantive nature of the arguments presented herein be transmitted telephonically to the applicant's representative so that such errors may be quickly resolved, or pursuant to MPEP 714.03 be entered into the record to avoid delay of the prosecution of this matter.

However, if the Examiner believes that such minor errors in form cannot be entered into the record or that the disposition of any issues arising from this response may be best resolved by a telephone call, then the Examiner is invited to contact applicant's representative at the telephone number listed below to resolve such minor errors or issues.

Respectfully submitted,

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